REMARKS

This amendment is responsive to the Office Action of May 14, 2009. Reconsideration and allowance of **claims 3, 17, 21-25, and 27-33** are requested.

The Office Action

Claims 17, 20, and 24-27 stand rejected under 35 U.S.C. § 112, second paragraph.

Claims 3, 17, and 20-27 stand rejected under 35 U.S.C. § 102 over Hunsaker et al. (U.S. Patent No. 5,564,108).

The Claims Distinguish Patentably
Over the References of Record

The claims have been amended and additional claims added to set forth more detail. It is submitted, that as amended, the claims now are not anticipated by Hunsaker and distinguish patentably over the references of record.

Claim 3 calls for digitally transmitting data from the medical device to the external device. While Hunsaker provides software updates to the medical device, there is no disclosure or suggestion within the sections of Hunsaker noted by the Examiner, or elsewhere in Hunsaker, of digitally transmitting digital measurement from the medical device to the external device. Accordingly, it is submitted that claim 3 and claims 21-23 and 28, dependent therefrom, are not anticipated by Hunsaker.

Claim 21 calls for measuring electrical parameters of signals received by the analog/digital interface and switching between the measurement mode and the communication mode in response to the measured electrical characteristics. By contrast, Hunsaker uses coding resistors whose resistance value identifies the source, hence whether the signals will be digital or analog. Monitoring coding resistance is not a measurement of the received signals. Hunsaker has a second embodiment in which the software update probe emulates the operation of a "smart probe" and responds to a query which then triggers the communication protocol. The query is a separate signal and not part of the transmitted or received analog or digital signals. Moreover, responding with a query is not measuring a property of the received signals.

Claim 22 calls for analyzing the received signals to determine whether they are analog or digital. By contrast, Hunsaker either measures a resistor or responds to a query.

Claim 23 calls for upgrading an existing medical device which is unable to communicate digitally. Such an upgrade procedure is not disclosed or fairly described in Hunsaker.

Claim 28 calls for determining physical properties of the plug to determine whether to assume the communication or measurement mode. By contrast, Hunsaker makes this determination based on coding resistors or a query.

Accordingly, it is submitted that claim 3 and claims 21-23 and 28 dependent therefrom distinguish patentably and unobviously over the references of record.

Claim 17 calls for a switch which assumes one state in response to receiving the analog sensor plug and another state in response to receiving the digital external device plug. While Hunsaker appears to be able to distinguish between analog and digital data, Hunsaker does not disclose using a switch.

Claim 24 calls for a processor programmed to implement a software routine which detects digital data. Hunsaker does not disclose a processor programmed with such a routine.

Claim 29 calls for the plug to have a mechanical construction which causes the switch to change states. By contrast, Hunsaker uses either coded resistors or a response to a query.

Claim 30 calls for the mechanical construction to include a magnet. Again, Hunsaker calls for either coding resistors or a response to a query.

Claim 31 calls for a processor programmed to analyze signals to determine whether the received signals are analog or digital. By contrast, Hunsaker either measures the resistance of coding resistors or responds to a query.

Claim 32 calls for an operating mode circuit that monitors and evaluates the signals received from the plug to determine electrical parameters of the received signal to determine whether the received signal is analog or digital. Rather than analyzing the signals themselves, Hunsaker accesses coding resistors or a response to a query.

Accordingly, it is submitted that claim 17 and claims 24 and 29-32 dependent therefrom distinguish patentably and unobviously over the references of record.

Claim 25 calls for an interface that includes a processor programmed to detect whether digital signals are being transmitted via the interface and automatically change from an analog measurement mode to digital communication mode in response to detecting the digital signals. By contrast, Hunsaker switches modes based on resistance values of coding resistors or based on a response to a query.

Accordingly, it is submitted that claim 25 and claims 27 and 33 dependent therefrom distinguish patentably and unobviously over the references of record.

35 U.S.C. § 112

The claims have been amended to specify more forcefully that the processing unit is a device or structure and not software.
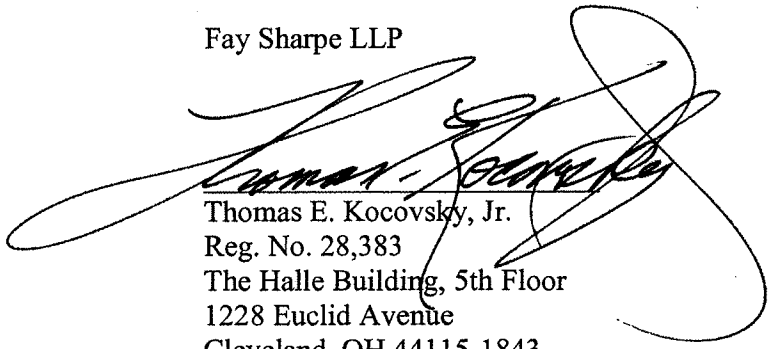
CONCLUSION

For the reasons set forth above, it is submitted that **claims 3, 17, 21-25, and 27-33** (all claims) are not anticipated by and distinguish patentably over the references of record. An early allowance of all claims is requested.

In the event the Examiner considers personal contact advantageous to the disposition of this case, the Examiner is requested to telephone Thomas Kocovsky at 216.363.9000.

Respectfully submitted,

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